

# EXHIBIT 34

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

-----  
WAYMO LLC, )  
Plaintiff, )  
vs. ) Case No.  
UBER TECHNOLOGIES, INC.; ) 17-cv-00939-WHA  
OTTOMOTTO, LLC; OTTO TRUCKING LLC, )  
Defendants. )  
-----)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF ERIC FRIEDBERG

New York, New York

Thursday, September 28, 2017

Volume I

Reported by:

DANIELLE GRANT

Job No. 2714978

PAGES 1 - 304

Page 1

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SAN FRANCISCO DIVISION

\_\_\_\_\_  
WAYMO LLC, )  
Plaintiff, )  
vs. ) Case No.  
UBER TECHNOLOGIES, INC.; ) 17-cv-00939-WHA  
OTTOMOTTO, LLC; OTTO TRUCKING LLC, )  
Defendants. )  
\_\_\_\_\_)

Videotaped Deposition of ERIC FRIEDBERG,  
Volume I, taken on behalf of Defendants, at Quinn  
Emanuel Urquhart & Sullivan, LLP, 51 Madison Avenue,  
New York, New York, beginning at 9:38 a.m. and ending  
at 6:15 p.m., on September 28, 2017, before DANIELLE  
GRANT, Certified Shorthand Reporter and Notary Public  
of the State of New York.

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20 Also Present:

21

22 ELIZABETH VERRIER, Global Chief Counsel for AON

23 Matthew Briteman, Videographer

24

25

Page 5

## I N D E X

WITNESS		EXAMINATION
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ERIC FRIEDBERG		
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BY MR. SCHMIDT		8
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## E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
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Exhibit 7401	Subpoena	14
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Exhibit 7402	Bates stamped	62
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	UBER00312489	
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Exhibit 7403	Bates stamped	122
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	STROZ_0002633	
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Exhibit 7404	Bates stamped	145
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	OTTOTRUCKING00022322	
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Exhibit 7405	Bates stamped	149
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	STROZ_0012628	
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Exhibit 7406	Bates stamped	149
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	STROZ_0000825	
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Exhibit 7407	Bates stamped	149
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	UBER00312450	
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Exhibit 7408	Bates stamped	150
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	UBER00312483	
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Page 6

1	E X H I B I T S		
2	EXHIBIT	DESCRIPTION	PAGE
3			
4	Exhibit 7409	Bates stamped	152
5		UBER00322318	
6	Exhibit 7410	Bates stamped	167
7		UBER00312645	
8	Exhibit 7411	Bates stamped	199
9		UBER00312644	
10	Exhibit 7412	Bates stamped	201
11		STROZ_0007604	
12	Exhibit 7413	Bates stamped	207
13		OTTOTRUCKING00023987	
14	Exhibit 7414	Bates stamped	213
15		UBER00315509	
16	Exhibit 7415	Bates stamped	214
17		UBER00312684	
18	Exhibit 7416	Bates stamped	228
19		UBER00314635	
20	Exhibit 7417	Bates stamped	237
21		UBER00315747	
22	Exhibit 7418	Bates stamped	245
23		UBER00312638	
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New York, New York

Thursday, September 28, 2017

9:34 a.m.

VIDEOGRAPHER: This is the 09:36:08

deposition on September 28, 2017. 09:36:09

9:36 a.m. The witness is Eric 09:36:14

Friedberg. This case is Waymo 09:36:16

versus Uber Technologies, Number 09:36:16

CV00939WH1. United States District 09:36:20

Court of Northern California. 09:36:28

Deposition is being held at Quinn 09:36:31

and Emanuel, 51 Madison Avenue, New 09:36:35

York City. My name is Matthew 09:36:40

Briteman. I'm the videographer for 09:36:42

Veritext Legal Solutions. The 09:36:45

court reporter is Danielle Grant of 09:36:46

Veritext Legal Solutions. 09:36:50

Attorneys please introduce 09:36:50

yourself. 09:36:53

MR. SCHMIDT: This is Patrick 09:36:54

Schmidt from Quinn Emanuel Urquhart 09:36:55

& Sullivan on behalf of the 09:36:55

plaintiff, Waymo. 09:36:58

MS. BLUNSCHI: Melanie 09:36:59

Blunschi from Latham and Watkins on 09:36:59

behalf of non-party Stroz Friedberg 09:37:05

1	and the witness.	09:37:05
2	MS. WEBER: Whitney Weber also	09:37:07
3	on behalf of non-party Stroz	09:37:08
4	Friedberg and the witness.	09:37:10
5	MR. TAKASHIMA: Edward	09:37:12
6	Takashima, Boies Schiller & Flexner	09:37:12
7	for Uber and Ottomotto.	09:37:12
8	MS. VERRIER: Elizabeth	09:37:12
9	Verrier, global chief counsel for	09:37:12
10	Aon Service Corporation and Stroz	09:37:23
11	Friedberg.	09:37:23
12	THE REPORTER: Will counsel on	09:37:23
13	the phone please identify	09:37:30
14	themselves.	09:37:32
15	MR. ERLICH: Yes. On the	09:37:34
16	telephone this is Miles Erlich from	09:37:34
17	Ramsey and Erlich on behalf of	09:37:34
18	non-party Anthony Levandowski.	09:37:40
19	MR. PATCHEN: Also on the	09:37:45
20	telephone, Jonathan Patchen, Taylor	09:37:46
21	and Patchen, on behalf of non-party	09:37:46
22	Lior Ron.	09:37:48
23	THE REPORTER: You may begin.	09:37:51
24	EXAMINATION	09:37:51
25	ERIC FRIEDBERG, called as a witness, having been	09:37:51

Page 9

1	first duly sworn by Danielle Grant, a	09:37:51
2	Notary Public within and for the State	09:37:51
3	of New York, was examined and testified	09:37:51
4	as follows:	09:37:51
5	EXAMINATION BY	09:37:51
6	MR. SCHMIDT:	09:37:51
7	Q Good morning, sir.	09:38:03
8	A Good morning.	09:38:04
9	Q Could you please state and	09:38:04
10	spell your name for the record.	09:38:05
11	A Eric Friedberg, E-R-I-C,	09:38:08
12	F-R-I-E-D-B-E-R-G.	09:38:09
13	Q What is your city and state of	09:38:10
14	residence?	09:38:12
15	A New York, New York.	09:38:13
16	Q What's the city and state that	09:38:14
17	you regularly conduct business in person in?	09:38:16
18	A New York, New York.	09:38:20
19	Q Have you ever been deposed	09:38:22
20	before?	09:38:23
21	A Yes.	09:38:24
22	Q How many times?	09:38:25
23	A Two or three.	09:38:34
24	Q Were those in an expert	09:38:36
25	witness capacity or fact witness capacity?	09:38:39

1 diligence employees? 10:17:26

2 A I wouldn't say they were 10:17:28

3 limitations. I would say -- there were two 10:17:29

4 instances where, after April 12, there was a 10:17:33

5 point in time where we had conducted what I 10:17:43

6 would say was a first level reviewed and 10:17:46

7 culled about a million-and-a-half documents 10:17:49

8 down to about 35,000 documents. And we 10:17:54

9 wanted a little more budget to just go back 10:18:07

10 to the non-relevant items and do a little 10:18:11

11 more sort of due diligence on sort of our 10:18:14

12 methodology, but at that point we were -- 10:18:20

13 there was a hiatus in the review. And I 10:18:27

14 remember outside counsel thinking that it 10:18:36

15 wasn't really necessary to go back and do 10:18:41

16 that last bit of due diligence on the 10:18:44

17 non-relevant items that had been classified 10:18:47

18 in relativity. And we had sort of taken a 10:18:54

19 hiatus anyway. And when we came back to 10:18:57

20 finish up the review and review -- the 10:19:01

21 finalized reviewing of the 35,000 documents, 10:19:05

22 we just ended up doing our second level of 10:19:10

23 review and not doing that small piece of due 10:19:14

24 diligence. But I thought that was a 10:19:18

25 reasonable -- reasonable decision, it's a 10:19:21

Page 39

1	judgment call.	10:19:27
2	Q Your understanding of this	10:19:30
3	decision was that it was budget driven?	10:19:31
4	A I don't --	10:19:35
5	MS. BLUNSCHI: Object to the	10:19:36
6	form.	10:19:36
7	MR. TAKASHIMA: I just want to	10:19:36
8	caution the witness again, on the	10:19:46
9	post April 11 or April 12 time	10:19:49
10	period, communications between	10:19:53
11	either counsel and both counsel and	10:19:55
12	Stroz Friedberg would be	10:19:57
13	privileged.	10:19:57
14	MS. BLUNSCHI: And this	10:19:58
15	decision that you're talking about	10:19:59
16	was after April 12; is that	10:19:59
17	correct?	10:20:03
18	THE WITNESS: After April 12.	10:20:04
19	A So I -- it's hard to answer	10:20:07
20	without talking about that.	10:20:09
21	Q How long did the hiatus, as	10:20:15
22	you put it, last?	10:20:17
23	A Until July.	10:20:19
24	Q When did it begin?	10:20:23
25	A Around mid-April.	10:20:31

1	witness about any other matter. And I don't	01:30:32
2	think we did. I think the only thing we	01:30:34
3	really did is we didn't necessarily at that	01:30:37
4	time bring up to those three guys, hey,	01:30:39
5	there's this pending transaction which was	01:30:45
6	represented to us to be confidential as of	01:30:48
7	that time.	01:30:48
8	Q When you talked about avoiding	01:30:51
9	educating witnesses about sensitive matters,	01:30:54
10	you weren't limiting that to just information	01:30:58
11	about the transaction, were you?	01:31:01
12	MR. TAKASHIMA: Objection to	01:31:06
13	form.	01:31:07
14	A Yeah. I see that the e-mail	01:31:23
15	continues to give other examples -- or one	01:31:24
16	other example.	01:31:28
17	Q So for example, in the	01:31:29
18	interviews of the diligence employees, you've	01:31:30
19	refrained from asking about destruction of	01:31:32
20	disks bearing Google source code, correct?	01:31:38
21	MS. BLUNSCHI: Objection to	01:31:44
22	form.	01:31:45
23	MR. TAKASHIMA: Objection to	01:31:45
24	form.	01:31:45
25	A We absolutely did not,	01:31:46

Page 140

1 actually. And if you read the Lior Ron 01:31:46  
2 interview memorandum, you'll see that we 01:31:50  
3 asked exactly about that. And he explained 01:31:52  
4 to it and also corroborated the entire story 01:31:54  
5 about, you know -- not corroborated, but 01:31:58  
6 spoke to, the whole story of the destruction 01:32:00  
7 of the disks. 01:32:02

8 Q Did you ask the other 01:32:03  
9 diligence employees? 01:32:05

10 A I don't remember that, but we 01:32:08  
11 certainly -- you see, that's a perfect 01:32:10  
12 example. I think maybe we're trying to be 01:32:10  
13 polite here, but we certainly didn't let that 01:32:21  
14 limit our ability to ask people things about 01:32:22  
15 important things. That really pertinent 01:32:26  
16 example, which is, e.g., the destruction of 01:32:30  
17 disks bearing the Aspen source code, I could 01:32:30  
18 tell you that we did do that, we did ask Lior 01:32:37  
19 Ron about that. We did question him, and he 01:32:40  
20 did give us information about it. I don't 01:32:44  
21 remember if whether talked to the other three 01:32:45  
22 about it. But given the circumstances, they 01:32:48  
23 didn't appear from our investigation to know 01:32:53  
24 about it, but -- 01:32:56

25 Q But you didn't ask them right? 01:33:04





1 Q Below this paragraph, there is 01:52:26  
2 a list of external projects that Levandowski 01:52:28  
3 disclosed during his interview; is that 01:52:34  
4 correct? 01:52:36

5 A Yes. 01:52:37

6 Q Is it your understanding that 01:52:37  
7 this list of external projects is -- or was 01:52:39  
8 intended to be exhaustive? 01:52:43

9 MR. TAKASHIMA: Objection to 01:52:47  
10 form. 01:52:47

11 A I don't know what 01:53:01  
12 Levandowski's intention was. I believe he 01:53:02  
13 was asked, "What were your outside projects," 01:53:08  
14 and he listed them, and we recorded them. 01:53:11

15 Q So what I'm trying to get at 01:53:14  
16 is when this interview was conducted, was 01:53:15  
17 this list intended to list all of his outside 01:53:18  
18 projects, or is it reserving the possibility 01:53:22  
19 that there may be some others? 01:53:24

20 MR. TAKASHIMA: Objection to 01:53:28  
21 form. 01:53:29

22 A I think was to generally meant 01:53:29  
23 to elicit what his outside projects were. It 01:53:30  
24 wasn't a central issue of this, I don't think 01:53:35  
25 so. 01:53:39

1	Q	It was important enough to	01:53:43
2		include --	01:53:45
3	A	Yeah.	01:53:45
4	Q	-- in this memorandum,	01:53:45
5		correct?	01:53:47
6	A	Yeah. I don't know that -- in	01:53:48
7		other words, I don't know that we spent a lot	01:53:49
8		of time drilling down on, you know, pressing	01:53:57
9		somebody on whether -- is there anything	01:53:58
10		further? Is there anything further? We	01:53:59
11		asked him what his external projects were, he	01:54:00
12		responded, and we recorded it.	01:54:03
13	Q	If it was proven in this case	01:54:05
14		that Levandowski had external projects that	01:54:08
15		were not included on this list and were not	01:54:12
16		approved by Google, would you consider --	01:54:14
17		would you -- strike that.	01:54:21
18		If it was proven in this case	01:54:23
19		that Levandowski had external projects that	01:54:24
20		were not included on this list and were not	01:54:27
21		approved by Google, would you believe that he	01:54:29
22		had deceived you during this interview?	01:54:33
23	MS. BLUNSCHI:	Object to the	01:54:38
24		form.	01:54:38
25	MR. TAKASHIMA:	Objection to	01:54:39

1 form. 01:54:39

2 A So our focus was on whether 01:54:41

3 there was -- to conduct an investigation of 01:54:45

4 whether he had brought any Google IP relating 01:54:48

5 to driverless cars from Google to Ottomoto 01:54:52

6 and Uber. So I don't know whether he was 01:54:57

7 candid about the extent of his outside 01:55:02

8 projects, if he -- I don't know whether if he 01:55:05

9 wasn't candid about it whether it was an 01:55:10

10 inadvertence or not. But since and unless 01:55:12

11 there was some outside project relating to 01:55:16

12 driverless cars technology and lidar, I 01:55:21

13 wouldn't necessarily consider that material. 01:55:23

14 And I wouldn't think anybody would have 01:55:27

15 drilled down on it that much. 01:55:31

16 Q If there was an external 01:55:33

17 project that Levandowski was running related 01:55:35

18 to driverless car technology and lidar, would 01:55:38

19 you consider that material? 01:55:42

20 MS. BLUNSCHI: Object to the 01:55:44

21 form. 01:55:44

22 MR. TAKASHIMA: Join. 01:55:44

23 A Well, so if he didn't -- this 01:56:01

24 is all hypothetical, so if he didn't bring 01:56:03

25 any Google IP to that side project, then that 01:56:07

Page 158

CERTIFICATE

STATE OF NEW YORK )

) ss:

COUNTY OF RICHMOND)

I, DANIELLE GRANT, a Certified Shorthand Reporter, and Notary Public within and for the State of New York, do hereby certify:

That ERIC FRIEDBERG, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

In witness whereof, I have hereunto set my hand this 2nd day of October, 2017.



DANIELLE GRANT